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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,763	11/03/2006	Akihiro Matsuura	WAKAB83.003APC	3860
20995 7590 08/03/2009 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER COLE, ELIZABETH M	
			ART UNIT 1794	PAPER NUMBER
			NOTIFICATION DATE 08/03/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

Office Action Summary	Application No. 10/599,763	Applicant(s) MATSUURA ET AL.	
	Examiner Elizabeth M. Cole	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 13-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/28/07;10/6/06</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-10, 13-18, drawn to a molded interior automobile trim.

Group II, claim(s) 11-12, drawn to a process for making a molded interior automobile trim.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: At least claim 1 is anticipated by JP 2003/208183 which discloses a molded interior trim having the claimed layers of an air permeable design layer, a shape retaining felt layer and a porous adhesive layer wherein the design layer and shape retaining felt layer have the claimed air permeability.

3. During a telephone conversation with Mr. Dan Altman on 1/16/09 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-10, 13-18. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11-12 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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5. The examiner has required restriction between product and process claims.

Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder.

All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what is meant by a "spit" fiber. The terminology is not conventional and is not defined in the specification. Therefore, the scope of the claim is indefinite. For purposes of the art rejection, any material which has fibers made from two different resins will be considered to meet this claim.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2, 10, are rejected under 35 U.S.C. 102(b) as being anticipated by Imamura et al, JP 2003/208183 which is equivalent to U.S. Patent Application

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publication 2005/0233106 which is relied on in the following art rejection for citations.

Imamura et al discloses a laminate comprising a carpet layer 11, a discontinuous adhesive layer 11a and a buffer layer 12. The buffer layer may comprise a fibrous mat and corresponds to the claimed felt. The carpet layer corresponds to the claimed design layer. The buffer layer has air permeability between 40 Nsm^{-3} and 800 Nsm^{-3} . See paragraph 0053-0054. The carpet layer has an air permeability of between 100 Nsm^{-3} and 1000 Nsm^{-3} . See paragraph 0052. The layers are three dimensionally shaped. See drawings as well as paragraph 0049. The layers are useful in forming molded interior trim installations for automobiles. See paragraph 0049. The buffer layer can comprise two different types of fibers and thus meets the limitations of claim 10 as that claim is currently understood.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imamura et al, JP 2003/208183, (equivalent to US Patent Application Publication 2005/233106). Imamura et al disclose a laminate for use in forming a molded automobile interior as set forth above. Imamura differs from the claimed invention because it does not disclose the claimed variation in shape and flow resistance values as set forth in the claims. However, Imamura et al teaches forming the shape of the molded automobile interior lining to coform to the shape of the automobile in which it is

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to be installed, (see paragraph 0049), and Imamura teaches varying the flow resistance depending on which portion of the laminate is close to the engine of the automobile relative to those portions which are further away from the automobile. See paragraph 0056. Therefore, Imamura teaches that the air flow resistance is a result effective variable such that the air flow resistance should be smaller in regions closer to the engine and larger at regions farther from the engine. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected the airflow resistance for different regions of the laminate as well as the shape of the laminate through the process of routine experimentation, in order to form a laminate which fit within the automobile cabin and which had the optimum air flow resistance in view of its proximity to the engine.

10. Claims 7-9, 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imamura et al, JP 2003/208183 (equivalent to U.S. Patent Application Publication 2005/0233106) as applied to claims 3-6 above, and further in view of Wood, U.S. Patent Application Publication 2001/0050197. Imamura discloses a laminate for use in forming a molded automobile interior as set forth above. Imamura differs from the claimed invention because it does not teach employing a perforated film having a plurality of holes as an adhesive layer but instead employs discontinuous strips of thermoplastic film. Wood teaches a perforated film for use as in sound absorbing applications inside of automobiles. Wood teaches suitable diameters for the perforations are 4 mils or less for the narrowest portion of the perforation and 125 to 300% of that value for the widest portions. See paragraph 0039. Exemplary values encompass the claimed diameter

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size of 0.5-3 mm. See paragraphs 0037-0040. The diameters may have a tapered or conical shape. See paragraph 0038. The frequency of the holes is a result effective variable and in combination with the size and shape of the holes can be used to optimize sound absorption characteristics. See paragraph 0036. Therefore, it would have been obvious to have selected the size, shape and distribution of the openings through the process of routine experimentation which produced the optimum sound absorption characteristics. As to claims 8 and 9, it is noted that Imamura teaches that the layers of the laminate may comprise further perforations in order to optimize the air flow resistance. See paragraph 0055. Therefore it would have been obvious to have added additional perforations in regions as needed and to have employed conical or tapered perforations as taught by Wood, in order to form a laminate having optimum air permeability and thus sound insulating and absorbing properties. Further, with regard to Wood, it is noted that the thermoplastic resin film may comprise polyolefins and polyesters which meet the limitations of claims 17 and 18. See paragraph 0063. The thermoplastic film may be used as an adhesive layer to bond fibrous layers together. See paragraph 0073. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed a perforated thermoplastic film as taught by Wood as the discontinuous adhesive layer in Imamura, with the expectation that this would provide improved sound absorption for the laminate material. With regard to claims 15 and 6, it is noted that Imamura teaches the buffer layer should have a thickness of 5 mm and can comprise a mixture of fibers such as polyester and low melting point thermoplastic fibers in an amount of 5-50 wt %. See paragraph 0054.

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Imamura teaches a density of 0.1 g/cubic centimeter which is equal to 100 kg/cubic meter. See example 1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

The examiner's supervisor Rena Dye may be reached at (571) 272-3186.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.

/Elizabeth M. Cole/
Primary Examiner, Art Unit 1794

e.m.c